

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT

MOOSE M. SCHEIB,

Debtor

Case No. 21-42581-mar
Chapter 7
Hon. Mark A. Randon

KELLY SILVERA JARRETT

Plaintiff,

Adv. Proc. No. 21-04167-mar

v.

Hon. Mark A. Randon

MOOSE SCHEIB, a/k/a MUSTAPHA SCHIEB
a/k/a MUSTAPHA CHEAIB,

Defendant.

**DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S CORRECTED COMPLAINT**

NOW COMES Moose M. Scheib ("Defendant"), by and through his attorneys, OSIPOV
BIGELMAN, P.C., and states as follows:

Jurisdiction

1. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.
2. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.
3. Denied, as untrue.

4. Admit as true.

Background Facts

5. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

6. Admit, as true.

7. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

8. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

9. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

10. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

11. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

12. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.

13. Denied, as untrue.

14. Denied, as untrue.

15. Denied, as untrue.

16. Denied, as untrue.

COUNT I
CONVERSION

17. No Response required.

18. Denied, as untrue.

19. Denied, as untrue.

20. Denied, as untrue.

21. Denied, as untrue.

22. Denied, as untrue.

WHEREFORE, the Defendant, respectfully requests that this Honorable Court deny the relief sought and that Plaintiff's Complaint be dismissed with prejudice.

COUNT II
UNJUST ENRICHMENT

23. No Response required.

24. Denied, as untrue.

25. Denied, as untrue.

26. Denied, as untrue.

27. Denied, as untrue.

WHEREFORE, the Defendant, respectfully requests that this Honorable Court deny the relief sought and that Plaintiff's Complaint be dismissed with prejudice.

COUNT III
FRAUD AND MISREPRESENTATION

- 28. No Response required.
- 29. Denied, as untrue.
- 30. Denied, as untrue.
- 31. Denied, as untrue.
- 32. Denied, as untrue.
- 33. Denied, as untrue.
- 34. Denied, as untrue.

WHEREFORE, the Defendant, respectfully requests that this Honorable Court deny the relief sought and that Plaintiff's Complaint be dismissed with prejudice.

COUNT IV
BREACH OF CONTRACT

- 35. No Response required.
- 36. Denied, as untrue.
- 37. Neither admit nor deny for lack of knowledge or information upon which to form a belief as to the truth of the matter.
- 38. Denied, as untrue.

39. Denied, as untrue.

WHEREFORE, the Defendant, respectfully requests that this Honorable Court deny the relief sought and that Plaintiff's Complaint be dismissed with prejudice.

AFFIRMATIVE DEFENSES

The Defendant lacks sufficient knowledge or information to form a belief as to the truth of some of the allegations contained in the Complaint. Until the Defendant avails himself to his right to discovery in this proceeding, he cannot determine whether the following Affirmative Defenses will be asserted at trial or earlier by way of appropriate motion. These defenses, however, are included in the Answer to the Complaint in order to preserve the intention of the Defendant to assert these defenses and to avoid waiver of these or any other available defenses.

1. Failure to state a claim upon which relief can be granted.
2. The complaint was filed untimely.
3. Conversion, Unjust Enrichment, Fraud and Misrepresentation, and Breach of Contract are not core proceedings.
4. Plaintiff failed to attach the alleged contract.
5. Plaintiff cannot maintain a claim for conversion as the necessary elements are missing as this was simply an investment with risk where funds were lost.
6. Plaintiff has failed to establish the necessary intent for its fraud claims.
7. Plaintiff has failed to plead fraud with particularity.

8. Plaintiffs' reliance was not reasonable.

Respectfully Submitted,

Dated: August 26, 2021

OSIPOV BIGELMAN, P.C.

BY: /s/ Jeffrey H. Bigelman
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CERTIFICATE OF SERVICE

I, hereby certify that on August 26, 2021, I served the following Paper: Defendant's Answer and Affirmative Defenses to Corrected Complaint on the following parties at these addresses by the CM/ECF Filing System upon:

JOHNSON LAW, PLC
Solomon M. Radner, Esq.
E-mail: hradner@venjohnsonlaw.com

Dated: August 26, 2021

OSIPOV BIGELMAN, P.C.

BY: /s/ Monique Kallabat
MONIQUE KALLABAT
Legal Assistant
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